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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 DONALD WALDEN JR, NATHAN
12 ECHEVERRIA, AARON DICUS, BRENT
13 EVERIST, TRAVIS ZUFELT, TIMOTHY
RIDENOUR, and DANIEL TRACY on behalf of
themselves and all others similarly situated,

14 Plaintiffs,

15 vs.

16 THE STATE OF NEVADA, *EX REL.* ITS
17 NEVADA DEPARTMENT OF CORRECTIONS,
and DOES 1-50,

18 Defendants.

Case No.: 3:14-cv-00320-MMD-WGC

**DEFENDANTS THE STATE OF
NEVADA, *EX REL.* ITS NEVADA
DEPARTMENT OF CORRECTIONS'
SIXTH MOTION TO FILE UNDER
SEAL**

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20 Defendant the State of Nevada, *ex rel.* its Nevada Department of Corrections (“NDOC”), by
21 and through its attorneys, Wilson Elser Moskowitz Edelman & Dicker LLP, hereby moves to seal
22 certain confidential exhibits attached to NDOC’s Opposition to Plaintiffs’ Motion for Partial
23 Summary Judgment on Liability for Unpaid Wages Under the FLSA, concurrently filed herewith.
24 This is the sixth such filing, in keeping with NDOC’s prior Motion to Decertify Collective Action,
25 filed on January 31, 2018 (ECF Nos. 134 and 135), Opposition to Motion for Partial Summary
26 Judgment on the FLSA Claims With Respect to the Two Issues of Liability Presented, filed February
27 28, 2018 (ECF Nos. 142 and 143), Opposition to Motion for Class Certification, filed on March 12,
28

2018 (ECF Nos. 159 and 160), Reply in Support of Motion to Decertify Collective Action (ECF Nos. 171 and 172), and NDOC's Motion to Exclude all Evidence from Plaintiffs' Experts, The Employment Research Corporation, Malcolm Cohen and Laura Steiner (ECF No. 189).

This Motion is made and based upon the following Memorandum of Points and Authorities, all pleadings and papers on file herein, and any oral argument that may be presented at any hearing on the Motion. A proposed Order is attached hereto as Exhibit "A."

DATED: April 7, 2020.

**WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP**

BY: /s/ Cara T. Laursen

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

NDOC once again respectfully requests an Order sealing certain exhibits attached its Opposition to Plaintiffs' Motion for Partial Summary Judgment on Liability for Unpaid Wages Under the FLSA, concurrently filed herewith to protect the confidentiality of information and material subject to the Stipulated Protective Order filed on September 23, 2015. NDOC's Opposition to Plaintiffs' Motion for Partial Summary Judgment on Liability for Unpaid Wages Under the FLSA necessarily cites to and references this confidential material. Furthermore, Plaintiffs have confirmed the anticipated use of additional confidential documents also subject to the Stipulated Protective Order. Accordingly, NDOC seeks an order sealing those exhibits and additional documents.

II. ARGUMENT

This Court has the discretion to seal records pursuant to Federal Rule of Civil Procedure 5.2(d), which states that this Court “may order that a filing be made under seal without redaction.” Under Local Rule 10-5(b), “papers filed with the Court under seal shall be accompanied by a motion for leave to file those documents under seal [...]” Pursuant to the Nevada Rules for Sealing and Redacting Court Records (“SRCR”), any person may request that the court seal or redact court records by filing a written motion to initiate proceedings to seal or redact a court record. *See* SRCR Rule 3(1). The public interest in privacy that outweighs the public interest in open court records includes findings that: “the sealing furthers [...] a protective order entered under NRCP 26(c).” *Id.* at 3(4)(c).

The parties entered into a Stipulated Protective Order on September 23, 2015, to protect certain confidential information and records from becoming public knowledge. This confidential information is deemed confidential in order to protect the internal policies and procedures of the NDOC facilities. In the interest of public safety, it is necessary that this information be kept confidential. The following exhibits are deemed to be confidential and subject to the Stipulated Protective Order and therefore, are entitled to be filed under seal.

Exhibit	Description of Document
F.	Declaration of Robert Crandall
G.	Deposition of Daniel Tracy (excerpts)
H.	Deposition of Aaron Dicus (excerpts)
I.	Deposition of Travis Zufelt (excerpts)
J.	Deposition of Donald Walden Jr. (excerpts)
K.	Salary Administration Regulation 320
L.	Variable Work Schedule Request

1	M.	Election of Compensatory Time
2	N.	Variations in Plaintiff Work Schedules and Compensatory Time
3	O.	Deposition of Timothy Carlman (excerpts)
4	P.	Deposition Donald Patrick Riggs (excerpts)
5	Q.	Administrative Regulation 326 Posting of Shifts - Overtime
6	R.	Aaron Dicus Employee Personnel File
7	S.	Table 2
8	T.	State of Nevada Employee Handbook (excerpts)
9	U.	Employee Paycheck Analysis for Aaron Dicus
10	V.	Employee Paycheck Analysis for Nathan Echeverria
11	W.	Employee Personnel File of Brent Everist
12	X.	Employee Personnel File of Timothy Ridenour
13	Y.	Employee Personnel File of Daniel Tracy
14	Z.	Employee Personnel File of Donald Walden, Jr.
15	AA.	Employee Personnel File of Travis Zufelt
16	BB.	State of Nevada Human Resources Data Warehouse, Employee Paycheck Analysis for Various
17	CC.	Authorization for Leave and Overtime Request Form for Brent Everist
18	DD.	Authorization for Leave and Overtime Request Form for Timothy Ridenour
19	EE.	Authorization for Leave and Overtime Request Form for Daniel Tracy
20	FF.	Deposition of Andre Natali (excerpts)
21	GG.	Deposition of Eric Jones (excerpts)
22	HH.	Deposition of Francisco Bautista (excerpts)
23	II.	Deposition of Jo Gentry (excerpts)

1 **III. CONCLUSION**

2 For the foregoing reasons, NDOC respectfully requests that this Court enter an Order sealing
3 the aforementioned list of exhibits attached to NDOC's Opposition to Plaintiffs' Motion for Partial
4 Summary Judgment on Liability for Unpaid Wages Under FLSA, concurrently filed herewith and
5 additional documents to be utilized by Plaintiffs in their anticipated motion practice. A proposed
6 order is attached hereto as Exhibit "A."

7
8 DATED: April 7, 2020.

9 **WILSON ELSE MOSKOWITZ**
10 **EDELMAN & DICKER LLP**

11 BY: /s/ Cara T. Laursen

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17 *ex rel. is Department of Corrections*
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP and that on the 7th day of April, 2020, I electronically filed and served a true and correct copy of the foregoing **DEFENDANTS THE STATE OF NEVADA, *EX REL.* ITS NEVADA DEPARTMENT OF CORRECTIONS' SIXTH MOTION TO FILE UNDER SEAL** to all parties on file with the CM/ECF:

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☒ Defendants Sealed Exhibits listed in this Motion will be sent to Plaintiffs' electronically with a Dropbox link that is password protected.

By: /s/ Lani Maile
An Employee of WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP